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March 11, 2021

VIA ECF

The Honorable John G. Koeltl
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Hayes et al., No. 20 Cr. 500 (JGK)

Dear Judge Koeltl:

We are writing to update the Court with respect to the plan for our client Benjamin Delo to voluntarily travel to the United States, and to outline the proposed conditions of release pending trial that have been agreed upon by the parties.

The government has indicated that the necessary immigration approval will be available in London no later than Friday, March 12, 2021. Mr. Delo will arrive in the United States early on Monday, March 15, 2021. The parties anticipate that the initial appearance and arraignment will take place later that day. We understand that Your Honor has referred these hearings to Magistrate Judge Cave, who will be on duty next week.

As indicated in our February 11, 2021 letter to the Court (Dkt. 26), the parties reached an agreement-in-principle as of January 7, 2021 with respect to the waiver of Mr. Delo's rights under the U.S.-U.K. extradition treaty, voluntary surrender and bail. The relevant background is as follows: Mr. Delo is a British citizen who has lived and worked in Hong Kong since 2012 and has permanent residency status there. Mr. Delo was temporarily in the United Kingdom when the indictment was unsealed on October 1, 2020, and has not returned to Hong Kong as the parties worked through extradition and surrender issues. Mr. Delo worked at BitMEX, the cryptocurrency derivatives trading platform referenced in the indictment, from its founding in 2014 through April 2019, when he stepped down from management and assumed a non-executive director role. We have provided information concerning Mr. Delo's financial condition to the government. Mr. Delo has no criminal history.

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Subject to the Court's approval, the proposed bail package is as follows:

- \$20,000,000 bond secured by \$2,000,000 in cash;
- Mr. Delo to be permitted to travel to the United Kingdom (including Jersey) and Bermuda, with all travel on notice to pretrial services;
- Mr. Delo to surrender his Grenada passport and Hong Kong Identity Card but will be permitted to retain his United Kingdom passport;
- Mr. Delo to execute a waiver of extradition in a form agreed-upon by the parties;
- Mr. Delo to be released on his signature with the cash security, presently in an attorney trust account, to be transferred to the Clerk of Court as soon as possible after the entry of the release order; and
- The parties agree to other pretrial conditions deemed appropriate in connection with the bond and travel.

The government reserves the right to bring to the Court's attention new or different information that may be contained in the pretrial services report.

We are available to answer any questions that the Court may have in advance of Monday's proceedings.

Respectfully submitted,

/s/ Patrick J. Smith

Patrick J. Smith
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cc (via email): Magistrate Judge Sarah L. Cave (CaveCriminalDuty@nysd.uscourts.gov)
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